

Remarks

The shortened statutory period in which to file a response to the Office Action of December 1, 2004 ended on March 1, 2005. A petition for a one-month extension of time in which to respond to the December 1st Office Action is therefore enclosed, as is an authorization to charge the deposit account of Ladas & Parry, LLP. the fee required for the one-month extension of time.

Claims 1, 2, 9 and 10 were rejected as being obviousness but the rejections of claims 2, 9 and 10 were not explained and as a result, the Office Action was improper under 37 C.F.R. 1.104(c)(2).

In the Office Action, claims 1, 2, 9 and 10 were rejected under 35 U.S.C. §103(a) as being unpatentable over Brewer et al., U.S. Patent No. 4,947,859 in view of Reeves et al., U.S. Patent No. 5,913,829. The Examiner contends that Brewer discloses all of the limitations of pending claim 1 except for the piezoelectric member that is claimed as tightly engaging the rear area of a hard, back piece. Other than briefly discussing claim 1, a reason or reasons *why* claims 2, 9 and 10 were also considered obvious was/were not provided. On page 2 of the Office Action, the Examiner ostensibly rejected claim 7, asserting that the limitations of claim 7 can be found in the combination of Brewer, Reeves et al. and Ota.

The claims should not have been rejected because the references do not show or suggest any of their limitations.

The Applicant respectfully disagrees with the Examiner's rejection of any of the claims on the basis of combined teachings of Brewer and Reeves et al.

The plain language of claim 1 requires the transducer to be comprised of a piezoelectric member that *surrounds* the lateral surface of the viscoelastic unit. The viscoelastic unit is claimed as having a cylindrical outer shape. Thus, claim 1 requires the piezoelectric member to surround the lateral surfaces of the cylindrically-shaped viscoelastic unit.

An inspection of the figures of both the Brewer reference and the Reeves et al. reference shows that neither of them disclose a cylindrically-shaped unit, the lateral surface of which is wrapped, wound, enclosed, encircled or otherwise covered with or by a piezoelectric device. In fact, an electronic search of the text of both references unequivocally shows that neither of them contain any of the words: wrap, wind, lateral, encircle, enclose or encircle.

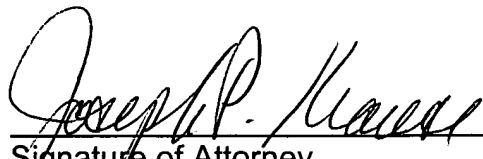
On the basis of the foregoing facts, it is simply impossible to find the limitations of claim 1 in either the text of Brewer and Reeves et al. or the figures of either them and because of that fact, the rejection of any of the claims under Brewer and Reeves et al. was improper. Reconsideration and allowance of the claims is in order.

As can be seen above, the claims as filed under the PCT have been amended to conform them to U.S. practice. The Applicant contends that none of the claim amendments narrow the scope of any of the claims nor were the amendments necessary or made to obtain allowance. In fact, the claim amendments were made only to conform PCT-filed claims to U.S. practice, by, for example, removing reference numerals and characterizing language.

If the Examiner contends that any of the foregoing amendments to the claims are narrowing and will give rise to a *Festo*-based estoppel, the Applicant asks that the Examiner set forth in the record, how and why the amendments are narrowing and, how and why they were either necessary or made to obtain the allowance of the claims.

Respectfully submitted,

Date: April 1, 2005


Signature of Attorney
Joseph P. Krause
Ladas & Parry LLP
224 South Michigan Avenue
Chicago Illinois 60604
Tel. No. (312) 427-1300
Reg. No. 32578